

1           MR. MEYERS: I believe so, and I thought I  
2           made that clear earlier.

3                     There are notification provisions in the  
4           MACTs that we're dealing with that I'm aware of.  
5           So that there is that -- some of that information  
6           that's available and required to be provided.

7           MS. BROOME: So if there was a dispute about  
8           how that MACT applied between you and the agency,  
9           be it EPA, region, or state, that would surface?

10          MR. MEYERS: With respect to those options,  
11          yes.

12          MR. HARNETT: Thank you very much for your  
13          time.

14                     The next person is Anne Slaughter  
15          Andrew, from the CASE Coalition.

16          MS. ANDREW: My name is Anne Slaughter  
17          Andrew, and I'm here today on behalf of the CASE  
18          Coalition, which is an Indiana-based coalition of  
19          about a dozen leading industrial and manufacturing  
20          companies, each with significant operations in  
21          Indiana.

22                     Our members produce such goods as steel,  
23          chemicals, pharmaceuticals, automotive, and  
24          aerospace parts. Our members operate facilities

1 ranging from relatively small operations with four  
2 to five major emission units to much more complex  
3 manufacturing facilities.

4 Many of these facilities have operated  
5 under Title V permit conditions for several years  
6 now, and we believe we have a great deal of  
7 experience to bring to this task force for its  
8 consideration.

9 The coalition intends to submit written  
10 comments on a number of issues during the public  
11 comment period, but today we'd like to focus our  
12 testimony on two significant issues that many of  
13 our members are facing in Indiana. One is the  
14 frequency and the manner of gap-filling monitoring  
15 that's being incorporated into Title V permits,  
16 and the second is the manner in which the NESHAP  
17 and other requirements are being incorporated into  
18 Title V permits.

19 In assessing what works and what doesn't  
20 work under the Title V program, as it has been  
21 implemented to date, the prospective provided  
22 today by the coalition is to offer you a pragmatic  
23 on-the-view ground of the program by companies  
24 that have worked cooperatively with the State of

1 Indiana over the years on numerous Clean Air Act  
2 programs, including this one, and we continue to  
3 work with IDEM, which is the state implementing  
4 agency in Indiana, even on the issues that we are  
5 raising with you today.

6 The first concern we'd like to address  
7 is the imposition of gap-filling monitoring that  
8 goes well beyond what's needed to reasonably  
9 assure compliance and leads to burdensome, costly  
10 requirements in the permit, inconsistent with the  
11 requirements that U.S. EPA has deemed satisfactory  
12 in other states. And I think that I can best  
13 convey our concerns with several examples on how  
14 this impacts a facility day to day, year to year.

15 Across the state, we're seeing permits  
16 with the requirement to conduct checks of  
17 equipment and visible emissions on a per-shift  
18 basis. Now, many of the permit writers tell us  
19 that this should not be a big deal. Take a look  
20 at the meter of the stacks, see what is happening,  
21 check a box.

22 But the problem is that when you're  
23 talking about most of these large industrial  
24 facilities, just taking a look is much more than

1       that. You have to schedule for the look, record  
2       the look, report the look, and certify the look.  
3       When you require this on several emission units  
4       spread over a large facility, all of a sudden you  
5       have very significant costs, and as our examples  
6       will show, typically with little or no  
7       environmental benefit, as these units that are  
8       having these requirements imposed on them are  
9       usually well controlled with reliable equipment  
10      which have not had any historically experienced  
11      performance problems.

12               Example 1 we have is an aluminum  
13      crushing unit with emissions vented to a dust  
14      collector that was subject to a general opacity  
15      limit and a process rate limit for particulate  
16      emissions. The state included in the permit a  
17      once-per-shift visible emissions reading and a  
18      once-per-shift pressure drop reading with  
19      associated recordkeeping requirements. The cost  
20      for the once-per-shift visible emission  
21      observations and pressure drop recording would be  
22      \$21,900 a year, which would be over a hundred  
23      thousand dollars for a five-year permit term, and  
24      this was for one unit. And this cost does not

1 include the cost to maintain the data, review it,  
2 and report it.

3 And then putting this perspective -- the  
4 cost in perspective, you have to keep in mind that  
5 this unit did not have any history of  
6 noncompliance. It had a dust collector that was  
7 required to be operated, and it's proven to be a  
8 reliable control device. And at the same time,  
9 this unit was also subject to a preventative  
10 maintenance plan requirement; an operations,  
11 maintenance, and monitoring plan requirement; and  
12 a quarterly baghouse inspection.

13 Example 2; in another instance perhaps  
14 more telling, I think, of the systematic approach  
15 that concerns us in Indiana, the original permit  
16 holder had a permit that required once-per-day  
17 visible emission observations. Once per day.  
18 After five years of no visible emissions, the  
19 source sought its renewal and requested and  
20 expected that IDEM would reduce the frequency of  
21 the monitoring requirement, consistent with the  
22 factual data they gathered. To the contrary,  
23 because the state had taken on a policy of visible  
24 emission monitoring once per shift, the state

1        issued the permit increasing the visible emission  
2        observation requirement to once per shift.

3                Clearly the state's approach is out of  
4        balance. And unfortunately, these examples are  
5        not isolated circumstances. Indiana has taken  
6        approach where they have piled on monitoring  
7        requirements, and on top of those requirements,  
8        added a frequency of monitoring of once a shift  
9        that is not only extremely costly to the  
10       permittees but to the states as well. And they're  
11       doing this typically and systematically with no  
12       apparent analysis regarding the need for or the  
13       benefit from this type of monitoring and without  
14       regard to the cost to the facility.

15               We would urge the task force to make  
16       recommendations to both U.S. EPA and the states to  
17       acknowledge consistency in the approach to  
18       gap-filling monitoring requirements, and  
19       particularly with regard to this once-per-shift  
20       frequency situation, that U.S. EPA and the states  
21       would take into account the significant costs of  
22       these monitoring requirements and ensure that  
23       before such requirements are imposed, there is a  
24       technically valid basis and a sufficient

1 environmental benefit.

2 Our second concern is the manner in  
3 which the NESHAP requirements are being  
4 incorporated into the Title V permits in our  
5 state. As I mentioned, the coalition works  
6 cooperatively with IDEM regarding program  
7 implementation issues, and indeed the coalition  
8 initiated discussions with IDEM regarding the  
9 process for NESHAP incorporation over  
10 two-and-a-half years ago.

11 We initiated these discussions because  
12 our concern with IDEM's approach, which they took  
13 on in the interest of clarity, of customizing the  
14 NESHAP requirements for a facility, and then  
15 including those customized conditions in  
16 paraphrased narrative terms was one that we  
17 thought had significant problems. Our position,  
18 then, and based on our own experience since then,  
19 is that states must incorporate the NESHAP  
20 requirements by using citations to the applicable  
21 standards in the Title V permits.

22 There is no required approach on how to  
23 set forth the NESHAP requirements in a Title V  
24 permit. However, as a coalition we strongly

1 believe there is a standard that must be met, and  
2 that standard is that the applicable regulations  
3 must be set forth in the permit in a manner that  
4 ensures absolute accuracy and completeness.

5           Judged by this standard, how would a  
6 state's approach like Indiana's of customizing and  
7 paraphrasing the NESHAP requirements measure up?  
8 Even exercising the best of intent, which we  
9 certainly give to the State of Indiana, the  
10 likelihood is high that a customized narrative  
11 version of the NESHAP requirements will be  
12 inaccurate or incomplete. Why? The NESHAPs are  
13 lengthy and complicated because the requirements  
14 and obligations are many and complex.

15           Individual permit writers, most of whom  
16 have little experience with complex air  
17 regulations, cannot reasonably be expected to  
18 avoid the confusion, inaccuracies, and  
19 incompleteness when they attempt to reduce and  
20 rewrite in the Title V permit the NESHAP  
21 requirements that were crafted by regulatory  
22 experts at U.S. EPA, who invested significant time  
23 evaluating a particular industry and drafting the  
24 NESHAP regulatory language.



1           As we all know, the final language in a  
2       NESHAP is the result of public hearings, public  
3       comments, responses to the same, complex  
4       negotiations, and sometimes litigation. Changing  
5       a word in the process of paraphrasing or  
6       explaining the NESHAP can have significant  
7       consequences, perhaps to make it more stringent or  
8       less.

9           The experience in Indiana bears out our  
10      concern, and the instances of incomplete and  
11      inaccurate NESHAP conditions in Title V permits  
12      are commonplace, and since we've had some  
13      examples, I won't go further with that.

14           This approach, though, and another of  
15      the concerns we have is it creates a needless cost  
16      and delay in the program. Even if we put aside  
17      the concerns with accuracy, this customization  
18      narrative approach involves spending significant  
19      time and dedicated resources by both the state and  
20      the permittee.

21           In one example, we had one source with  
22      only one unit affected by NESHAP, who spent months  
23      working through the requirements with the state,  
24      correcting numerous errors along the way, and with

1 all of this effort, there was still requirements  
2 in the final permit that did not apply to the unit  
3 and required a modification. If the permit had  
4 cited to the relevant sections of the NESHAP, the  
5 problem would have been avoided.

6 In another example, a source had a Title  
7 V permit item include the specific NESHAP pressure  
8 drop range of plus or minus one inch instead of  
9 incorporating the citation to the NESHAP  
10 requirements. Following the issuance of the  
11 permit, the NESHAP pressure drop was modified to  
12 plus or minus two inches. Now that permittee is  
13 going to have to go back to the state, and the  
14 state is going to have to expend precious  
15 resources to modify that permit to reflect the  
16 current NESHAP.

17 Even if it were possible for the state  
18 to rewrite through customizing and paraphrasing a  
19 NESHAP requirement into the Title V permit that  
20 was accurate and complete, including all the  
21 flexibility and regulatory context that the  
22 standard requires, it could only be accomplished  
23 by utilizing a significant amount of the state's  
24 time and dedicated resources. And after assuming

1 all these risks and delays, what would the final  
2 permit look like? If this permit were to meet our  
3 standard of accuracy and completeness, this  
4 customized NESHAP requirement would look very  
5 similar to the original regulation.

6 In addition to this overwhelming stress  
7 and cost to the system, the cost and burdens on  
8 the permittee are also significant. And I think  
9 we've heard from the testimony from General  
10 Electric some of those costs to the permittee.

11 In summary, then, the common interests  
12 of the state, the permittee, and the public in  
13 clear, accurate, and complete inclusion of the  
14 applicable NESHAP requirements in the Title V  
15 permits is best served by using the citation-based  
16 approach, and we would urge this task force to  
17 recommend in its final report that U.S. EPA  
18 explain to states that the citation-based approach  
19 is the right approach, and further we would urge  
20 the U.S. staff here today to clarify this point  
21 with states now, before the issuance of the task  
22 force report to remedy this problem, so the states  
23 and the permittees can work quickly to get these  
24 final permits issued.

1 I thank you for your attention and hope  
2 our comments have been helpful.

3 MR. HARNETT: Thank you.

4 Bob Morehouse?

5 MR. MOREHOUSE: I put my card up early  
6 because I felt ignored earlier. I didn't have a  
7 question at the time, but I knew I was going to  
8 have one. I'm learning the system. It's taken a  
9 while.

10 Anne, you mentioned -- you were talking  
11 about added visible emission requirements. Are  
12 you finding that they're even being added for  
13 things like natural gas-fired equipment, which  
14 best case is clean-burning equipment?

15 MS. ANDREW: Most of the things that I can  
16 recall that have been raised to my attention are  
17 baghouses. But I have -- I will say that it's  
18 been done on a very systematic basis, so I  
19 wouldn't find it surprising that that may be the  
20 case.

21 MR. HARNETT: Shelley Kaderly?

22 MS. KADERLY: I was wondering whether, on  
23 these gap-filling monitoring requirements that you  
24 mentioned, and even on the NESHAP and

1       incorporation of paraphrased language, whether the  
2       entity raised comments during the public comment  
3       period on concerns over those things being put  
4       into the permit?

5               MS. ANDREW: I can assure you, many times,  
6       from firsthand experience, that we've met  
7       informally with the state permit writers, we've  
8       worked with them throughout the permit writing  
9       process, we've raised comments, we've gone back to  
10      the state after the comment period when they've  
11      issued the response to comments and realized that  
12      there is a lack of understanding or perhaps a lack  
13      of time on their part to give full consideration  
14      to our concerns, and we have used every  
15      opportunity, formal and informal, to raise this to  
16      the state's attention.

17              Because one of the things that we've  
18      found in Indiana is that statistics have shown  
19      that there is a significant cost to the state for  
20      every permit appeal. It takes the state twice as  
21      much of their resources to deal with these issues  
22      on appeal than it does through formal or informal  
23      negotiations before the permits issue. And so we,  
24      both because it is in the company's best

1 interests, but it's also in the state's best  
2 interests, we've done everything we can to address  
3 and resolve these prior to the permit issuance.

4 One of the reasons why we're here today  
5 is because we feel strongly that these things do  
6 need to be resolved and there needs to be a  
7 systematic resolution.

8 MS. KADERLY: What was been their response on  
9 the gap-filling measures for the visible  
10 emissions, as an example, for baghouses? It  
11 sounds like that from what you described that they  
12 are being consistent in how they're applying this  
13 requirement across the board. So I'm just  
14 wondering what their response is to you when you  
15 raise that as a comment.

16 MS. ANDREW: I think their response, as --  
17 well, let me put it in context first. Because I  
18 think one of the things we struggle with -- and  
19 again, as I offered at the beginning, this is an  
20 on-the-ground pragmatic review.

21 When the companies that we represent are  
22 filing their comments and working with the state,  
23 oftentimes their comments are being responded to  
24 by a permit writer. It's not being responded to

1 by some of the senior people in the program. And  
2 those permit writers are all extraordinarily  
3 overworked, and they are being told to move these  
4 things forward. So we often find that they cut  
5 and paste responses from one permit to another,  
6 and as I said, we credit them with using their  
7 best of intentions, but we appreciate that they're  
8 working under a very stressful situation as well.

9 So I will say that I don't want to  
10 suggest that some of the responses that we're  
11 getting are the state's final answer, or perhaps  
12 even some of their responses that you might get  
13 from speaking at a final negotiation with some of  
14 the senior policymakers at the state, but the  
15 responses that are coming out in the response to  
16 comments, as a public record, in response to the  
17 once a shift and the types of examples I gave, the  
18 responses that we will get is that it's not that  
19 much trouble, so we don't understand why you're  
20 complaining, and don't you have to assure  
21 compliance? And this is an appropriate approach.

22 In other words, it's nonresponsive to  
23 our concerns that this is an out-of-balance  
24 approach from a cost environmental benefit

1       standpoint, and asking them to understand the  
2       questions that we've raised and the data we've  
3       provided them.

4               MR. HARNETT:   Richard Van Frank?

5               MR. VAN FRANK:   I don't entirely understand  
6       your objections to the recording of pressure drop  
7       and a visual inspection of the baghouse emissions  
8       once per shift.   Baghouses do fail.

9               How would you propose the operation of  
10      the baghouse be monitored if you eliminate those  
11      inspections?

12              MS. ANDREW:   Well, one of the things that I  
13      think is important to keep in mind is that in most  
14      instances that the concern we have is where the  
15      monitoring frequency is in the context of other  
16      monitoring requirements and programs, where there  
17      are preventative maintenance plans and there may  
18      be other quarterly baghouse inspections and a  
19      number of other programs that are layered on.

20              And at the same time I want to say our  
21      concern is that we're not trying to scuttle out  
22      from under an appropriate monitoring program.   Our  
23      concern is that this monitoring program is not  
24      balanced against a cost-effective approach for



1       assuring compliance.

2                   And, in fact, if one would look at --  
3       just as an example, if the state were to go  
4       through a rule-making in order to impose this kind  
5       of monitoring, they would be required under the  
6       statutory authority to consider an environmental  
7       cost benefit, and they would have to be required  
8       to consider this with what's the margin of  
9       compliance, the potential variability of  
10      emissions, how reliable this situation is, and all  
11      of those things, and that, in a sense, is simply  
12      what we're asking.

13               MR. HARNETT:   Adan Schwartz?

14               MR. SCHWARTZ:   My question really dovetails  
15      on the discussion you had with Shelley Kaderly.

16                   You're describing situations where  
17      monitoring was imposed with what you're calling  
18      woefully -- well, let's call it woefully  
19      inadequate justification.  It would seem to me  
20      that -- and you're appealing those is what I'm  
21      understanding.  If they are being appealed, it  
22      would seem to me that the decision, if the  
23      adjudicatory body is doing its job, the agency  
24      would be losing at least the majority of those

1       appeals. And I know at my agency, if we lost a  
2       couple of appeals, we change our policy to stop  
3       that from happening.

4               So I'm wondering if you have any  
5       thoughts as to why that administrative sort of  
6       corrective process isn't correcting what you see  
7       as being wrong.

8               MS. ANDREW: I can offer at least my  
9       speculation on that.

10              One is that the State of Indiana, which  
11       I think may be similar to other states, began --  
12       if you remember the slide we saw with the  
13       70 percent of the sources with 25 percent of the  
14       emissions, the State of Indiana began issuing  
15       permits with the 70 percent. They are just now  
16       getting to the larger, more sophisticated sources.  
17       And I think that this issue is of much greater  
18       significance to these folks because they  
19       understand the monitoring programs, they have  
20       sophisticated monitoring programs, and a once per  
21       shift on a site that has numerous emission units  
22       is a much more significant cost. So I think we  
23       are entering a stage where perhaps there is a  
24       different consideration given to some of these

1 monitoring requirements.

2 And I will say at the same time, I think  
3 it's been in the last year, I think, that the  
4 majority -- that the number of permits that the  
5 state has issued, the number of appeals that has  
6 gone up has been significant. And, in fact, the  
7 state is now, as I was told yesterday by one of  
8 the state's lawyers, in a modest crisis because so  
9 many of the most recent permits have been  
10 appealed.

11 So I think we are about to see the  
12 beginnings of the process you described unfold,  
13 except if I can recall from my previous comment,  
14 the cost to the state of engaging their lawyers,  
15 their permit writers, and their senior staff  
16 people in resolving on a case-by-case basis all of  
17 these appeals, is a very costly and  
18 resource-draining approach to moving this program  
19 forward.

20 And so we would like to work with the  
21 state in trying to come up with a process that  
22 preserves their resources for things that are  
23 perhaps much more environmentally beneficial, and  
24 try to move this forward.

1           MR. HARNETT: Keri Powell?

2           MS. POWELL: If I can just ask first a  
3           clarifying question, and then the question that I  
4           have.

5                     The clarifying question is at one point  
6           you mentioned an example of where a permit  
7           included what I think you meant was a portion of  
8           the MACT rule that wasn't applicable to the plant?  
9           Is that what you were saying? You gave an example  
10          and you said you had one permit where requirements  
11          that weren't applicable ended up in the permit.  
12          Did I misunderstand that?

13          MS. ANDREW: I know Steve Meyers from GE  
14          mentioned that, but I -- let me just go back  
15          through and see.

16          MS. POWELL: There was a portion where you  
17          had explained that you thought the MACT standards  
18          should be set forth --

19          MS. ANDREW: Yes, you're right.

20          MS. POWELL: (Continuing) -- in the permit  
21          accurately and completely, and there were examples  
22          of where the permits included some things that  
23          weren't applicable and other times when they left  
24          out things that were.

1 MS. ANDREW: Correct.

2 You know, the example that I cited was  
3 very simple. Simply to say that there is an  
4 example where one of our coalition members had  
5 worked closely with the state in order to try to  
6 make sure that it was accurate. And after all the  
7 efforts of both the state and the permittee, they  
8 still found that there were things that were not  
9 included in the permit that were part of the MACT.

10 MS. POWELL: So there wasn't an example of  
11 something that was included in the permit from the  
12 MACT that wasn't actually applicable.

13 MS. ANDREW: I didn't mention that.

14 MS. BROOME: Anne, I think you did. I think  
15 you talked about the labeling requirement for that  
16 one unit that was included.

17 MS. ANDREW: You know, if I read from my  
18 notes --

19 MS. BROOME: And you said a modification was  
20 required; remember?

21 Is that what you're talking about, what  
22 she said about requiring a modification?

23 MS. POWELL: In any case, I'll just go --  
24 this is sort of helping me understand what's

1       happening when the permitting authority is going  
2       through the MACT and deciding what goes in the  
3       permit.

4               Am I correct that there are some  
5       portions -- like, if you have a general MACT  
6       standard for a particular source category, that  
7       there may be some portions of that rule that  
8       aren't applicable to a particular plant, or is the  
9       whole thing always applicable?

10              MS. ANDREW: Well, I think part of it depends  
11       on the complexity of the MACT itself. There may  
12       be some portions of a MACT that, for example,  
13       there are some MACTs where if you have a certain  
14       type of process or certain type of unit, there are  
15       certain provisions, and if you have a different  
16       kind of unit, it would be different portions would  
17       be applicable.

18              MS. POWELL: Okay. So I guess what my  
19       concern is, is that if we were to move to the  
20       alternative that you're suggesting, where you just  
21       have a sort of broad citation to the MACT  
22       standard, and then you don't have all of these  
23       problems, I still don't understand how members of  
24       the public are supposed to know what portions of

1 the rule apply to your plant because -- I mean, if  
2 there are things that depend upon the certain  
3 characteristics of the plant, the members of the  
4 public aren't really in a position of being able  
5 to make that assessment on their own. So how do  
6 you propose that the permit would clarify how the  
7 rules applies to the particular plant?

8 MS. ANDREW: Well, one thing I said is  
9 because I think it's important as we work through  
10 these problems -- and as I said, this is the  
11 approach we've taken with the State of Indiana --  
12 in trying to be very specific and not trying to  
13 generalize, because I think oftentimes we come up  
14 with false impressions or false assumptions and, I  
15 think, sometimes bad results when we generalize.

16 But one -- so I don't know for exact --  
17 without having a specific example, but I do think  
18 there are, I guess, two thoughts I would offer in  
19 response. One is it would be nice to think that  
20 there is a golden way here, that there is really  
21 some magic answer that, you know, we seem to be  
22 eluding. I think we have various ways we can  
23 approach this, which I think Mr. Meyers from  
24 General Electric laid out.

1           There is a limited number of options,  
2           and I think the goal is to choose the path that  
3           provides the best result, not a perfect result.  
4           And I do think that the incorporation of the  
5           NESHAP by citation is the best result. And it may  
6           not be a perfect result.

7           But I also think to the extent there are  
8           concerns with the public wanting to understand  
9           better what is applicable, I think there are a  
10          number of different ways where that particular  
11          concern could be considered and could be  
12          addressed. But to address them in a legally  
13          enforceable document is probably not a good place  
14          to resolve those concerns. They can be addressed  
15          in the technical support document with further  
16          discussion. They could be discussed in a number  
17          of off-permit approaches.

18          And I know that the coalition members  
19          have considered and discussed and certainly  
20          willing to consider those kinds of approaches.  
21          But I think it's very important to understand that  
22          the Title V permit is viewed as a legal document,  
23          and that's not a place where we would think it  
24          would be appropriate to do that.



1           MR. HARNETT: Don van der Vaart.

2           MR. VAN DER VAART: I already have my cynical  
3     hat on. I totally agree with Keri on this one, in  
4     the sense -- on the MACT issue, sorry, we found  
5     that typically -- I mean, I know that there are --  
6     and we sometimes use specific citations, but  
7     sometimes we try to paraphrase. What we found is  
8     that the only people that don't benefit from us  
9     discussing it in a paraphrased sense are the  
10    in-house or the out-house attorneys who want to  
11    leave that flexibility open for down-the-line  
12    enforcement actions.

13                 The folks on the ground in the plants  
14    don't have any more understanding of those MACT  
15    rules than some of my engineers. But after  
16    discussing it with us and putting it in the  
17    permit, they benefit, and I think we benefit.

18                 Now, that's not to say we didn't do it  
19    incorrectly or they didn't agree to something they  
20    shouldn't have, but I just think there is a  
21    valuable educational process that occurs when  
22    everybody tries to integrate those  
23    very-difficult-to-follow MACT standards.

24                 Having said that, though, and I'll bring

1       in the gap-filling issue, too, if you've got a  
2       particulate emission rate, at least in one place  
3       the EPA said that the averaging time for  
4       monitoring should be consistent with the MACTs for  
5       that pollutant. I know there is some conflicting  
6       guidance out there, but in their proposed Part 70  
7       rules themselves they stated that it should be  
8       consistent with the averaging time of the MACTs.  
9       So you shouldn't be looking at a particulate  
10      standard anything more than once every 24 hours.

11               Where I'm leading to this is all the  
12      industries -- I don't know who you work for, but  
13      all the industries in our state aren't nearly as  
14      concerned about our resources. And they have been  
15      adjudicating and -- their permits, and they have  
16      been extremely successful in using the petition  
17      process. And when I say "petition process," I  
18      mean prior to going to actual hearing. They've  
19      been using that process very successfully in  
20      correcting mistakes that we've made.

21               So while it may be somewhat expensive,  
22      it's been really great. I mean, I'm sad that  
23      we're making mistakes, but it's been a great  
24      opportunity for industry to come in and say,

1 "Look, you guys don't even know what the standards  
2 are saying." And we listen in the context -- and  
3 it does get bumped up to the next-level manager.

4 So, I mean, I would freely use the  
5 adjudicatory process, and I would disregard any --  
6 I mean, how can that compare with the costs of  
7 \$21,000 looking at a baghouse three times a day.  
8 Let's get it right the first time and then move  
9 on.

10 MS. ANDREW: Were those questions?

11 MR. VAN DER VAART: Yeah, I guess my question  
12 is why aren't you adjudicating like crazy?

13 MS. ANDREW: One thing I'd like to make  
14 clear, at least underline if I haven't made clear,  
15 I don't want to imply in any fashion that by  
16 taking the approach of incorporation of the NESHAP  
17 through a citation basis that we think that a  
18 valuable dialogue in order to clarify in the minds  
19 of the permittee, to the extent they aren't clear,  
20 and the inspectors who really are the people on a  
21 day-to-day basis need to understand how that MACT  
22 should be implemented and what the compliance  
23 concerns are is a very valuable discussion. And I  
24 don't think that what we're proposing in any

1 fashion is contrary to that.

2 In fact, frankly, I think it is more  
3 supportive of that than the other approach.

4 Because at least in our state, and maybe we're not  
5 the typical state, but in our state spending a lot  
6 of time so that the permit writers can understand  
7 an incredibly complex MACT isn't in the end going  
8 to be a very wise investment of either the  
9 permittee or the state's time. Because once those  
10 permittees complete that, they may never see that  
11 MACT again.

12 MR. VAN DER VAART: Right. But don't you  
13 want that understanding -- that understanding  
14 you're talking about, don't you want that when you  
15 finally hammer it out in the permit?

16 MS. ANDREW: Well, but what I guess I'm  
17 saying, having that dialogue and making sure  
18 everyone is on the same page is a very good thing.  
19 But I think that in the end what has to happen is  
20 that the MACT -- in the Title V permit, the  
21 applicable requirements have to be clear,  
22 accurate, and complete, and that's what has to be  
23 our standard.

24 And the best approach to accomplish that

1 is to do it by citation. If you want to include  
2 unenforceable paraphrasing in the permit, if you  
3 want to include it in the technical support  
4 document, if you want to develop a guidance  
5 between the permittee and the inspectors that they  
6 would use for inspection purposes, all of those  
7 may be very -- I mean, actually, they are very  
8 valuable discussions to have. But there is a  
9 difference between that and what is in the permit,  
10 and that's, I guess, what we're advocating.

11 Let me just say that the next meeting we  
12 have where we're talking about the frequencies of  
13 the once per shift, I'm going to make sure we  
14 suggest to the state that the approach, we've been  
15 encouraged to pursue litigation by North Carolina.

16 MR. HARNETT: I'll take one more question.  
17 Bob Morehouse?

18 MR. MOREHOUSE: Yes, I just wanted to clarify  
19 a couple items I think that have kind of come up a  
20 few times. And one is that how does the public  
21 know about the MACT standards and how it's  
22 impacting a site. And we ought not forget the  
23 fact that the MACT standard, being very detailed,  
24 has a notice-of-compliance standard. There is an

1       initial notification that basically you're  
2       indicating the emission unit subject to the MACT.  
3       You've got information with regards to tests that  
4       you've run on your control devices, et cetera.  
5       And typically each MACT has a long litany of those  
6       requirements.

7               Sources are then also obligated to  
8       update that periodically. So that information is  
9       readily available today. And so I don't want to  
10      leave folks with the impression that by not  
11      putting all that detail in that folks lose  
12      something. I think it's already there.

13             And the other is maybe the concern that  
14      by not having the detailed standards in there,  
15      does that create a problem in terms of the source  
16      knowing what the requirements are. And I think at  
17      least my experience in the companies that I have  
18      talked to, is a way companies implement the MACTs,  
19      no matter how it reads in the Title V permit, they  
20      typically would take all of those MACT standard  
21      requirements and break them down, depending on who  
22      is responsible in a particular site and make sure  
23      for every permit term everybody knows what the  
24      method of compliance is, who the individual is

1       that's responsible on that site. So that, you  
2       know, when it becomes certification time you can  
3       point to someone who is a clear owner of that  
4       individual requirement.

5               And the people in the plants who do know  
6       the MACT rules, the way they work this is that  
7       kind of a mechanism. I don't think the people in  
8       the plant run and look at the Title V permit per  
9       se. They look at how the environmental experts  
10      rake that into the detailed requirement.

11             So at least that's been my experience,  
12      and I think it's kind of worth sharing those  
13      two points with this group.

14             That was not a question.

15             MS. ANDREW: Then I won't give an answer.

16             MR. HARNETT: Thank you very much for your  
17      time.

18             The next speaker will be Kathy Andria of  
19      the American Bottom Conservancy.

20             MS. ANDRIA: Good afternoon. Thank you very  
21      much for having this hearing, thank you for the  
22      task force, and thank you for including  
23      grass-roots representation on the task force. We  
24      very much appreciate that.